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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) No.: CR 18-0119 RS
)
v.)
JONATHAN AGUILAR, et al.) STIPULATION AND ORDER
Defendants.) CONTINUING MOTION HEARING AND
) ADJUSTING BRIEFING SCHEDULE

)

IT IS HEREBY STIPULATED that,

For the reasons set forth below, the parties request (1) a continuance of the briefing schedule for Round 2 motions; (2) a continuance of the next hearing date, at which Round 2 motions and a status conference are to be heard, from January 26, 2021 to May 25, 2021 and (3) an exclusion of time under the Speedy Trial Act from January 26, 2021 (through which Speedy Trial Act exclusions have currently been ordered) through May 25, 2021.

On March 9, 2020, and April 17, 2020, various defendants filed motions for discovery related to the Round 1 motions schedule. (Dkt. 251-253, 264-267). On May 22, 2020, the government filed ORDER [CR 18-0119
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1 responses to those motions. (Dkt. 280, 281). Various defendants have since filed replies and joinders to
2 those replies. (Dkt. 285-288). These motions are fully briefed and were previously set for hearing
3 before the Honorable Joseph C. Spero on July 28, 2020 and then on November 12, 2020 (Dkt. 276, 309).
4 However, because the defendants wish to personally participate in this hearing and are currently unable
5 to do so, the parties requested a continuance of the November 12, 2020 hearing to March 4, 2021, and
6 the Honorable Chief Magistrate Joseph Spero has ordered that continuance. (Dkt. 324).

7 The parties now request that this Court continue the Round 2 motions schedule by approximately
8 the same period of time (four months) by which the Round 1 motions have been continued. The parties
9 are currently scheduled to brief Round 2 motions in December 2020 and January 2021. The parties also
10 seek a corresponding Speedy Trial Act exclusion through May 25, 2021. The grounds for the requested
11 continuance and exclusion are as follows:

12 The COVID-19 pandemic has prevented defendants from appearing in person at court
13 proceedings, and, due to the number of defendants, also prevented them from appearing via
14 videoconferencing at group hearings. The defendants wish to personally participate in these substantive
15 motion hearings.

16 The ongoing pandemic is affecting the government's efforts to gather and produce discovery.
17 The parties continue to meet and confer informally by telephone regarding discovery issues in an
18 ongoing effort to resolve issues without the Court's intervention. For example, pursuant to a request in
19 late 2019 by defense counsel, the government has been gathering and producing on a rolling basis
20 various law enforcement reports and materials for alleged 19th Street and 16th Street gang members.
21 Additionally, after informal consultation with various defense counsel, the government has started
22 gathering materials related to follow-up requests from the defense, based in part on reports previously
23 produced in discovery and in part on anticipated expert witness testimony. In particular, the defendants
24 have made informal Rule 16 discovery requests by letter pertaining to charged murders and attempted
25 murders. Moreover, defendants have requested specific materials pertaining to forensic examinations.
26 Typically, these requests require referral to SFPD for records, which in turn is slowed down by current
27 shelter-in-place procedures within SFPD.

28 On June 12, 2020, the government produced more than 600 pages of discovery related to its
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1 expert witnesses. On July 23, 2020, the government produced additional discovery pertaining to alleged
2 19th and 16th Street gang members. Finally, on October 26, 2020, the government produced thousands
3 of pages of color versions of discovery that had previously been produced in black and white.

4 The government continues to gather and prepare discovery production of materials pertaining to
5 autopsies of deceased victims and medical treatment of surviving victims, in connection with incidents
6 charged in the pending indictment. The government is also in the process of gathering and preparing for
7 discovery production the remaining gang discovery from SFPD gang task forces and the San Francisco
8 Sheriff's Department related to all defendants in the current indictment and CR 14-0120 EMC and an
9 agreed-upon list of other purported gang members.

10 With respect to all of the outstanding requests set forth above, the government anticipates
11 producing responsive discovery on a rolling basis. The government is very close to producing additional
12 discovery that includes more than 1,000 pages of reports related to enterprise activity. The government
13 intends to complete production of undisputed remaining discovery requested by the defense, before the
14 March 4, 2021 hearing regarding the discovery motions. The government's hope is that completing
15 discovery in this time period will allow for more expeditious motion practice and trial setting, such that
16 the lengthy delay requested here may be offset later and the delay in time to trial (or trials) minimized.

17 Based on the above, the parties request that the Court continue the Round 2 motion briefing
18 schedule as follows:

19 Defense Filing Date: April 13, 2021

20 Government Oppositions: May 11, 2021

21 Defense Replies: May 18, 2021

22 Motion Hearing Date: May 25, 2021 at 10:00 a.m.

23 The parties also agree that, in light of the above, the ends of justice served by granting a
24 continuance through and including January 26, 2021, outweigh the best interest of the public and the
25 defendants in a speedy trial, within the meaning of 18 U.S.C. § 3161(h)(7)(A). The parties also agree
26 that this case is so complex, due to the number of defendants and the nature of the prosecution, that it is
27 unreasonable to expect adequate preparation for pretrial proceedings and for the trial itself within the
28 otherwise-applicable time limits, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(ii).

1 The parties further agree that failure to grant the continuance would unreasonably deny defense
2 counsel the reasonable time necessary for effective preparation, taking into account the exercise of due
3 diligence, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(iv).

SO STIPULATED.

Dated: November 17, 2020

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By: /s/

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Dated: November 17, 2020

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Dated: November 17, 2020

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Dated: November 17, 2020

/s/
ETHAN A. BALOGH
Counsel for Weston Venegas

ORDER

THE COURT ORDERS THAT the previous briefing schedule for the second round of motions is continued as follows:

Defense Filing Date: April 13, 2021

Government Oppositions: May 11, 2021

Defense Replies: May 18, 2021

Motion Hearing Date: May 25, 2021 at 10:00 a.m.

THE COURT ORDERS THAT a status hearing is also set for May 25, 2021, at 10:00 a.m.

9 THE COURT FINDS THAT the ends of justice served by granting a continuance from January
10 26, 2021, through and including May 25, 2021, outweigh the best interest of the public and the
11 defendants in a speedy trial, within the meaning of 18 U.S.C. § 3161(h)(7)(A).

THE COURT FURTHER FINDS THAT this case is so complex, due to the number of defendants and the nature of the prosecution, that it is unreasonable to expect adequate preparation for pretrial proceedings and for the trial itself within the otherwise-applicable time limits, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(ii).

16 THE COURT FURTHER FINDS THAT, to allow time for the parties to address ongoing
17 discovery issues which, in turn, will affect pretrial motions, failure to grant the continuance would
18 unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into
19 account the exercise of due diligence, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, THE COURT ORDERS THAT, the period from January 26, 2021 through and including May 25, 2021 (the date of the next hearing in this case) is excluded from the otherwise applicable Speedy Trial Act computation, pursuant to 18 U.S.C. § 3161(h)(7)(A), (B)(ii) & (B)(iv).

IT IS SO ORDERED.

DATED: November 18, 2020


HON. RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE